

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FEDERAL TRADE COMMISSION, STATE OF NEW YORK, STATE OF CALIFORNIA, STATE OF OHIO, COMMONWEALTH OF PENNSYLVANIA, STATE OF ILLINOIS, STATE OF NORTH CAROLINA, and COMMONWEALTH OF VIRGINIA,	:	20cv00706 (DLC)
	:	
	:	<u>ORDER</u>
	:	
Plaintiffs,	:	
	:	
-v-	:	
	:	
VYERA PHARMACEUTICALS, LLC, AND PHOENIXUS AG, MARTIN SHKRELI, individually, as an owner and former director of Phoenixus AG and a former executive of Vyera Pharmaceuticals, LLC, and KEVIN MULLEADY, individually, as an owner and former director of Phoenixus AG and a former executive of Vyera Pharmaceuticals, LLC,	:	
	:	
Defendants.	:	
	:	
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DENISE COTE, District Judge:

The defendants having withdrawn their jury demands in a Joint Stipulation and Order of March 30, 2021, it is hereby

ORDERED that the Scheduling Order of September 11, 2020 is amended as follows:

1. The summary judgment briefing schedule is stricken.
2. The Joint Pretrial Order must be filed by **October 20, 2021**.

As described in this Court's Individual Practices in Civil Cases, the following documents must be filed with the Pretrial Order: Proposed Findings of Fact and Conclusions of Law and a Memorandum of Law addressing all questions of

law expected to arise at trial. Any responsive papers are due one week thereafter. In the event a party does not file a Memorandum of Law, a responsive Memorandum of Law should not be submitted unless in reply to an unanticipated legal argument in the other party's Memorandum of Law. Counsel will provide the Court with two (2) courtesy copies of all pretrial documents at the time of filing.

All direct testimony except for testimony of an adverse party, a person whose attendance must be compelled by subpoena, or a witness for whom a party has requested and the Court has agreed to hear the direct testimony at trial, shall be submitted by affidavits served, **but not filed**, with the Joint Pretrial Order.

Those portions of depositions that are being offered as substantive evidence, along with a one-page synopsis (with transcript citations) of such testimony for each deposition, shall be exchanged at the time the Pretrial Order is filed.

Three days after submission of the affidavits, counsel for each party shall submit a list of all affiants that it intends to cross-examine at the trial. Affiants for whom such notice is not given are not required to be present at trial.

At the time the above-described documents are filed or served, counsel will provide the Court with one (1) electronic set of all exhibits, one (1) hardcopy of key exhibits, and two (2) courtesy copies of all other documents at the time they are served. Counsel will also provide the Court with one (1) hardcopy of the depositions, as described above. Counsel shall send the electronic versions to the Court's Chambers email: Cotenysdchambers@nysd.uscourts.gov. The case name, case number, and email contents should be clearly set forth in the email's subject line.


3. Any Daubert motions shall be due **October 20, 2021**. Any opposition shall be due **November 3**, and any reply shall be due **November 10**.
4. The final pretrial conference is scheduled for **December 10, 2021, at 10:00am** in Courtroom 18B, 500 Pearl Street.

IT IS FURTHER ORDERED that the trial will begin at **9:30 a.m. on Tuesday, December 14, 2021**, in Courtroom 18B.

IT IS FURTHER ORDERED that the following procedures shall govern the conduct of the trial.

1. All exhibits must be pre-marked and assembled sequentially in a digital folder labelled with the exhibit numbers for ready reference.
2. In advance of the trial, each party will send a complete list of exhibits to the Court's Chambers email: Cotenysdchambers@nysd.uscourts.gov. The list of exhibits should include witness affidavits and charts or summaries of evidence. The case name, case number, and email contents should be clearly set forth in the email's subject line.
3. Testimony will generally be taken between 9:30 and 5:00 from Monday through Thursday. There will be a mid-morning, a mid-afternoon and a lunch break from 12:45 to 2:00 p.m.
4. Counsel should make certain that they have custody of all original exhibits. The Court does not retain them and the Clerk is not responsible for them.

Dated: New York, New York
April 1, 2021



DENISE COTE
United States District Judge